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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4770/2016**

CHANDERMAL & ORS Petitioners
Through: Ms. Sunita Kumari, Advocate

versus

UNION OF INDIA & ORS Respondents
Through: Mr.Chiranjeev Kumar with Mr.Mukesh
Sachdeva, Advocates for UOI.
Mr.Yeeshu Jain, Standing Counsel with
Ms.Jyoti Tyagi, Advocate for L&B/LAC
Mr.Arun Birbal, Advocate for DDA.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

% **ORDER**
09.01.2019

SANJEEV NARULA, J.:

1. The prayer in this writ petition reads as under:

A. Issue an appropriate writ, order or directions (s) In the nature of mandamus and declare entire acquisition proceeding initiated under section 4(1) dated 6.04.1964 vide notification no. f4(9)/64- l&h and under section 6 of the land acquisition act 1894 dated 22.12.1966 has been lapsed by virtue of sub section 2 of section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of land bearing khasra Nos. 151(4-00), 156(4-6) of the revenue village Aali, New Delhi.

B. Pass any other order or further orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

2. In present case, a Notification under Section 4 of the Land Acquisition Act, 1894 ('LAA') was issued on 16th January, 1964 followed by declaration under Section 6 of the LAA on 22nd December, 1966, for public purpose namely for "planned Development of Delhi". Thereafter an Award bearing No. 3/97-98 was rendered on 5th December, 1997 followed by a corrigendum dated 10th December, 1997.

3. Counsel for the Petitioners submits that, compensation for the subject land has been paid to the Petitioners but the possession of the land has not been taken by the Respondents till date. Thus, the Petitioners are entitled for a declaration under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred to as "the Act"), to the effect that the acquisition proceedings in respect of the subject land is deemed to have lapsed.

4. On the contrary, learned counsel for the LAC submitted that Petitioners were paid compensation only after possession of land falling in Khasra no. 151 (04-00) and 156 (4-6) was acquired on 26th May, 1998.

5. The stand of LAC is fortified by the Counter affidavit filed by the DDA. DDA in its counter has raised a preliminary objection of maintainability of the present petition for raising disputed questions of fact and for failure of the Petitioners to challenge the acquisition proceedings for several years. DDA's affidavit also encloses the copy of the possession proceedings.

6. No rejoinder has been filed by the Petitioners to contradict the above assertions of the LAC and DDA respectively. Thus the averment of the Petitioners about continuing to remain in possession of the land becomes a disputed question of fact.

7. This petition has been filed invoking the extraordinary power of the Court under Article 226 of the Constitution of India. It is a settled position of law that, this Court, in the exercise of Writ Jurisdiction, does not delve into disputed question of rights and title of the parties. Thus matters in which disputed questions of fact are involved, cannot be decided in a summary proceeding based solely on the pleadings of the parties. Such disputed matters must be decided by the Civil Courts after recording of due evidence in the matter.

8. There is no explanation whatsoever offered in the petition for the inordinate delay in coming forward to seek relief under Sec.24 (2) of the 2013 Act. The Award for the subject land was passed on 5th December, 1997, whereas the

present petition has been filed after almost two decades and no other steps have been taken by the Petitioners. The petition is obviously barred by laches.

9. After the passing of the 2013 Act, the Petitioners have approached this court claiming that they are in possession of the land in question. There is no document annexed in the Petition or any averment made by the Petitioners, that would even remotely indicate that Petitioners continued in possession. Be that as it may.

10. In ***Mahavir v. Union of India (2018) 3 SCC 588***, the Supreme Court held as under:

“23. In the instant case, the claim has been made not only belatedly, but neither the petitioners nor their previous three generations had ever approached any of the authorities in writing for claiming compensation. No representation had ever been filed with any authority, none has been annexed and there is no averment made in the petition that any such representation had ever been filed. The claim appears not only stale and dead but extremely clouded. This we are mentioning as additional reasons, as such claims not only suffer from delay and laches but courts are not supposed to entertain such claims. Besides such claims become doubtful, cannot be received for consideration being barred due to delay and laches.

24. The High Court has rightly observed that such claims cannot be permitted to be raised in the court, and cannot be adjudicated as they are barred. The High Court has rightly observed that such claims cannot be a subject matter of inquiry after the lapse of a reasonable period of time and beneficial provisions of Section 24 of the 2013

Act are not available to such incumbents. In our opinion, Section 24 cannot revive those claims that are dead and stale.”

11. The aforesaid Judgment has been considered by the Supreme Court in the decision of *Indore Development Authority v. Shailendra* reported at (2018) 3 SCC 412, relevant portion of which is reproduced hereunder:-

“In re: Question (iii)

Whether Section 24 of the 2013 Act revives stale/barred claims?

120. In several cases, the challenge to the acquisition has become stale and otherwise barred. The question arises whether a beneficial provision of Section 24 of the 2013 Act revives such claims and the courts can entertain them.

123. The question arose as to whether the court can interfere in such cases? The Court's discussion on the legal aspects involved in *Mahavir case*, and its decision thereon, is summarised hereunder. The petition was dismissed on the ground of delay and laches, holding that it destroyed the remedy. It was further held that Section 24 does not revive non-existing or dead claims; it only ensures that claims, which were alive, would be examined.

127. Thus, when we ponder as to the instant case, qua the re-opening of stale claims under Section 24 of the 2013 Act, no “Johnny come lately” can be permitted to assert that he is in possession (claiming that physical possession has not been taken away from him), when such assertion has not been made for decades together. Such claims would not be revived after the person has slept over them; the courts must not condone sudden wakefulness from such slumber, especially in relation to claims over open pieces of land, and even

houses/structures, when the person may have illegally re-entered into the possession or may have committed trespass. Thus, for the aforesaid reasons, such claims cannot be entertained or adjudicated under Section 24 of the 2013 Act.”

12. This Court has on 10th December 2018 in W.P.(C) 2734/2015 (***Devender Singh v. The Hon'ble Lt. Governor***), 17th December 2018 in W.P.(C) 1380/2016 (***Bhule Ram v. Union of India***), 21st December 2018 in W.P.(C) 5647/2016 (***Ram Deviv. Govt of NCT of Delhi***), and on 19th December 2018 in W.P.(C) 6287/2014 (***Kartar Singh v. Union of India***), rejected petitions seeking similar reliefs on the ground of laches.

13. Following the aforementioned decisions and in the light of the facts and circumstances listed out hereinbefore, the Court dismisses the present petition both on the ground of laches as well as merits. The application is also dismissed.

SANJEEV NARULA, J

S.MURALIDHAR, J

JANURY 09, 2019

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